IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Pritam Singh APPELLANT

VERSUS

State of Punjab RESPONDENT

CORAM : HON'BLE MR.JUSTICE MEHTAB S.GILL

Present:- Mr.Dharmender Sharma, Advocate (Amicus Curiae) for the petitioner.

Mr.D.K.Mittal, D.A.G. Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment/order dated 27.5.1991 of the Chief Judicial Magistrate, Faridkot whereby petitioner Pritam Singh was convicted under Section 16(1)(1)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as “the Act”) and sentenced to undergo RI for one year and to pay a fine of Rs.3000/-, in default of payment of fine, to further

undergo RI for six months and order dated 12.11.1992 passed by the Additional Sessions Judge, Faridkot whereby appeal of petitioner was dismissed.

The case of the prosecution is that on July 27, 1989 Dr.Sham Lal Sharma who had been designated as Food Inspector accompanied by Jagroop Singh and Dr.S.S.Dhanwa inspected the Canteen of the petitioner situated at Jubli Cinema, Faridkot. Petitioner was having in his possession about 6 litres of cow milk which was meant for sale. Necessary formalities and rules were complied with and the sample and two more bottles of the milk were taken into possession as per rules. On receipt of the report of the Public Analyst Jalandhar Ex.PE, milk was found to be deficient in milk fat by 37.5% and milk solid not fat by 14% of the minimum prescribed standards.

The prosecution to prove its case, brought into the witness-box Dr.C.S.Brar PW-1 and Parveen Kumar PW-2.

I have heard the learned counsel for the parties and perused the record with their assistance.

Learned counsel for the petitioner has rightly argued that the case of the petitioner stands vitiated, as the Magistrate adopted the procedure of a warrant case under Section 16(1)(a)(i) of the Act, while his case was required to be tried as a summary trial under Section 16(1) of the Act.

The case of the prosecution stands on the solitary statement of Dr.Sham Lal Sharma. The independent witness Malkeet Singh was not examined by the prosecution. In fact, he gave his statement as DW-1 and demolished the case of the prosecution. The notifications Exs.PG and PH were not duly proved by Dr.Sham Lal Sharma.

There are merits in the argument of the learned counsel for the petitioner.

Revision petition is allowed. Petitioner is acquitted of the charge framed against him.

(MEHTAB S.GILL)
JUDGE

July 6, 2007
GD

WHETHER TO BE REFERRED TO REPORTER? YES/NO